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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,422	12/05/2003	Joseph W. Cole	112300-3391	9411

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EXAMINER	
MOSSER, ROBERT E	

ART UNIT	PAPER NUMBER
3714	

NOTIFICATION DATE	DELIVERY MODE
09/30/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATENTS@BELLBOYD.COM

Office Action Summary	Application No.	Applicant(s)	
	10/728,422	COLE ET AL.	
	Examiner	Art Unit	
	ROBERT MOSSER	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18th July 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-31* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-31* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 18th, 2008 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims **1-4, 9-14**, **19-25,** and **30-31** are rejected under 35 U.S.C. 103(a) as being unpatentable over Marnell (US 5,393,057) in view of Devaull (US 6,739,971).

Claims **1-4,** and **21-25**: Marnell teaches a method of playing a game including:

accepting a wager (*Marnell* Col 4:10-30);

presenting a main game of video poker including the generation and display of a set of cards representing a player hand (*Marnell* Figure 3);

receiving from the player an input subsequent from the placement of the wager to cause the play of a bonus game wherein said player input is independent of whether a the winning hand corresponds to a plurality of bonus categories (*Marnell* Col 4:30-40);

determining the outcome of the main game through the comparison of the player hand to a set of predetermined winning hands (*Marnell* Col 4:40-56);

awarding a winning amount if the player hand matches a predetermined winning hand (*Marnell* Col 4:40-56);

determining if the winning hand corresponds to a predetermined category of bonus event hands (*Marnell* Col 5:61-6:13);

incrementing the predetermined category of bonus event hands resultant of a match between the winning player hand and the predetermined category of bonus event hands(*Marnell* Col 5:61-6:13, 9:20-41);

playing the bonus event concurrently with the play of the main game wherein based on the random selection of winning hands across a plurality of categories of said bonus event a bonus is awarded reflective of the categories randomly selected(*Marnell* Col 10:7-24); and

resetting the values associated with the bonus categories resultant of awarding a bonus prize (*Marnell* Col 10:17-23).

Marnell however is silent regarding teaching enabling a player input subsequent to the determination of the game result wherein the player input is independent of the game result and causes play of a bonus event however in a related gaming invention Devaull teaches enabling the player to provide a game input to cause play of the bonus game prior during and subsequent to the determination of a game result (Devaull Claim 15, Col 1:5-12, 5:29-44). It would have been obvious to one of ordinary skill in the art at the time of invention to have incorporate the selective redemption feature of Devaull in the invention of Marnell because such a combination of wild symbols and symbol categories would have represented the use of known gaming features combined in conventional manners to yield predictable results.

Claims **9-10,** and **30-31**: Marnell teaches a method of playing a game including:

restricting play to a base game when said wager is below a threshold and allowing play of the bonus game when the wager is above a threshold (*Marnell* Col 5:37-50); and

funding the bonus award from a portion of the player wagers in a progressive prize system (Col 4:63-5:7) wherein the percentage of the progressive prize awarded to the respective players is based on their score (*Marnell* Col 10:14-23).

Claim **11**: Marnell teaches a method of playing a game as set forth above including the use of wild cards in the base game and combinations based thereon in the bonus game (*Marnell* Col 8:62-64) however is silent regarding the inclusion of a bonus

category wherein said bonus category is associated with a value which represents a combination of all remaining bonus categories. The inclusion of a bonus category associated with a plurality of values (and hence at least one value) which represents a combination of all values is understood to specify the last bonus category that would complete a coverall/blackout bingo pattern as it is associated with a category (space of the bingo pattern) and would additionally associated with a plurality of values representing the combination of all values on the game board according to the winning pattern established. The Examiner gives official notice that the utilization of coverall/blackout bingo pattern is exceptionally old and well known in the art of Bingo. Accordingly it would have been obvious to one of ordinary skill in the art at the time of invention to have incorporated coverall/blackout bingo pattern into the invention of Marnell in the combination of Marnell and Devaull at the time of invention because such a combination of wild symbols and symbol categories would have represented the use of known gaming features combined in conventional manners to yield predictable results.

Claims **12-14**: The respective limitations of claims **12-14** are presented and redressed above under the redress of at least claims **1-4** presented above.

Claims **19-20**: The respective limitations of claims **19-20** are presented and redressed above under the redress of at least claims **9-10** presented above.

Claims **5-8, 15-18, 26-29** are rejected under 35 U.S.C. 103(a) as being unpatentable over Marnell (US 5,393,057) in view of Devaull (US 6,739,971) as applied to at least claims **1-4, 9-14**, **19-25,** and **30-31** above, and further in view of Bennett (US 6,419,579).

Marnell teaches a method of playing a game as set forth above however is silent regarding the utilization of two dice to determine a multiplier utilized in combination with a bonus winning to determine an additional payout amount or equivalently described as a score. In a related invention however, Bennett teaches the utilization of dice feature including the incorporation of 2 dice in a card game to determine a supplemental payout amount (*Bennett* Figure 2; Col 1:51-2:44). It would have been obvious to one of ordinary skill in the art at the time of invention to have incorporated the utilization of dice to determine a supplemental prize multiplier as taught by Bennett into the invention of Marnell in order to maintain a player interest in a gaming machine as taught by Bennett (*Bennet*t Col 5-15).

Response to Arguments

Applicant's arguments filed July 18th, 2008 have been fully considered but they are not persuasive in view of the newly discovered reference to Devaull as applied above. The Appellant's arguments directed to establishing the proposed novelty of the invention premised on timing characteristics of a player input that results in the activation of a bonus game the timing characteristics of a player input activating a bonus game are taught by Devaull as cited above.

Following the above the applicant separately argues the proposed novelty of claim 11 under the general premise that the teachings of Marnell do not provide for a bonus category associated with a value which represents a combination of all of the values "associated" with the remaining bonus categories. This feature as so described would represent the mere inclusion of a category yielding a coverall/blackout combination in the bingo game of Marnell because as set forth a category completing a coverall/blackout pattern of the bingo game of Marnell would present both a category separate from the individual categories associated with each space and more over would represent a category that represents a combination of those remaining space through it's association with the winning outcome. Hence the question of obviousness with regards to the cited language is premised on whether the inclusion of an award category that represents the summation of Marnell's presented separate award categories through association would or would not be obvious. As the teachings of Marnell provide for known bingo combinations it would have been obvious to include the known bingo combination of Coverall/Blackout and such a combination would meet the claim limitations as so provided.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT MOSSER whose telephone number is (571)272-4451. The examiner can normally be reached on 8:30-4:30 Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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